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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,998	12/26/2001	Joseph Honein	IM 1725 CIP	2457

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EXAMINER

CHIN SHUE, ALVIN C

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GROUP 3000

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/035,998
Filing Date: December 26, 2001
Appellant(s): HONEIN, JOSEPH

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MAR 20 2003

GROUP 3000

attorney Johnson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/25/06 appealing from the Office action mailed 2/8/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2,567,191	Anguera	9-1951
84,807	Larsen (Denmark)	1-1958
2,569,450	Bouton	10-1951
JP 01,267,002	Anglehart	10-1989

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anguera '191. To use wood for the boards of Anguera, shown in fig.22, having the claimed modulus of elasticity and fiber bending strength, would

have been an obvious mechanical expedient, by the selection from readily available resources depending on the bending strength and stiffness desired.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denmark pat. '807 to Larsen. To use wood for the boards of Larsen having the claimed modulus of elasticity and fiber bending strength, would have been an obvious mechanical expedient, by the selection from readily available resources depending on the bending strength and stiffness desired.

Claims 1-5,7-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsen in view of Anguera '191. Larsen shows the claimed composite planks with the exception of the at least three spaced helical pins. Anguera teaches the use of at least three square cross-section helical pins for pinning composite boards. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Larsen or with at least three spaced helical pins, as taught by Anguera, for compressively pinning his boards together. To use wood for the boards of Larsen having the claimed modulus of elasticity and fiber bending strength, would have been an obvious mechanical expedient, by the selection from readily available resources depending on the bending strength and stiffness desired, furthermore, to

make his plank and boards of the claimed dimensions, would have been an obvious mechanical expedient depending on the size of the plank desired.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsen and Anguera as applied to claim 8 above, and further in view of Bouton. Bouton shows the use of three wooden boards to form a scaffold plank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Larsen for his plank to be made up of three boards, as taught by Bouton, in lieu of the four shown, to enable the use of fewer number of elements to form his plank. Furthermore, to make his plank and boards of the claimed dimensions, would have been an obvious mechanical expedient depending on the size of the plank desired.

Claim 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsen, Anguera and Bouton as applied to claim 9 above, and further in view of Japanese pat. '022 to Anglehart. Anglehart teaches the method of alternating the wood grains of side-by-side boards to enable a high resistance to warpage. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Larsen for his boards to be arranged with alternating wood grains, as taught by Anglehart, to resist warpage of his plank.

(10) Response to Argument

With respect to claim 16, Anguera or Larsen, Appellant argues that neither disclosed the claimed modulus of elasticity and fiber bending strength. It is noted that in patent law to select from known material for their known properties and advantages does not obviate obviousness, because if it was as applicant argues it would take away from the public's domain the right to chose material for their known properties, as Appellant has done, note page 19 of Appellant's specification. With respect to Anguera, Anguera teaches the use of helical pins 198 that hold the boards in compression as the pins prevent the boards from separating from each other when unclamped, and similarly the helical pins 5 of Larsen transversely "bind" his boards 1-4 together to prevent the outwardly pulling apart of the boards from each other due to the binding compression force of the pins. Appellant's arguments that the pins 5 of Larsen are loosely fitted in the holes 7 to allow the boards to be easily removed do not find support in the patent of Larsen, but mere speculation by Appellant.

With regards to Larsen and Anguera, the problem at hand to be resolved between the claimed invention and Larsen, is that compressively securing a plurality of board together with at least three spaced helical pins. Anguera teaches the use of at least three helical pins to compressively bind a plurality of boards together, thus Anguera is an analogous art, and it is with the scope of one of

ordinary skill in the art to appreciate the teachings from analogous arts to resolve the problem at hand, thus the combined teachings is proper.

With respect to Bouton and his clamping device, Bouton was not used to teach a clamping device, but the use of three wooden boards to form a scaffolding plank.

The difference to be resolved between the claimed invention and Larsen as modified by Anguera and Bouton, is that of positioning the wood grains of adjacent wooden boards in opposite directions to strengthen his composite structure. Anglehart teaches the method of positioning the wood grains of adjacent wooden boards in the opposite direction to resist warping (strengthening his composite structure), therefore, Anglehart is an analogous art, and it is deemed proper for one of ordinary skill in the art to appreciate the teachings of analogous arts to resolve the difference at hand. Therefore, the claimed invention would have been obvious in view of the modified device of Larsen.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


ACS

Conferees:

Peter Cuomo 

Richard Chilcot 

Alvin Chin-Shue 